

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1572 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MANEKLAL VITHALDAS PATEL

Versus

JAGDISHBHAI NANABHAI PATEL

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Appearance:

MR RM VIN for Petitioners

MR JN JADEJA for Respondent No. 1

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CORAM : MR.JUSTICE R.R.JAIN

Date of decision: 08/01/97

ORAL JUDGEMENT

Heard Mr. Vin for the applicants-original defendants. Mr. J.N. Jadega appears on behalf of the opponent-original plaintiff by filing Caveat Application no.4243/96. Concurrent finding of both the Courts below in an application for injunction filed by the opponent-original plaintiff has brought the litigation before this Court. The finding of both the Courts below

was against the applicants-the original defendants since they were restrained from interfering with the possession of Block no.585 agricultural land alleged to be in possession of the opponent-original plaintiff.

Admittedly, the opponent-original plaintiff was found in possession of suit property, and therefore, apprehending interference by the applicants-original defendants filed a suit for declaration and injunction. As observed by both the Courts below, the applicants-original defendants were not able to produce an iota of evidence either to show their possession or right title or interest in the suit property. They claim possession by virtue of exchange of said property by the opponent-original plaintiff for another block of agricultural land bearing block no.155, but no evidence has been produced to show any such exchange. Admittedly, the land bearing block no.155 is also standing in the name of opponen-original plaintiff. The applicants-original defendants have also not been able to show that at any point of time land bearing block no.155 stood in their names. Mr. Jadeja, learned Advocate for the opponent-original plaintiff has argued that land bearing block no.155 was standing in the name of the applicant no.1 and he is not before the Court either staking his claim or challenging possession of opponent-original plaintiff.

Since admittedly, the opponent-original plaintiff is found to be in possession of suit property as a cardinal rule no person is entitled to dispossess or cause interference with the possession except by due course of law. In this case, apprehending dispossession and interference, the suit was filed and on facts, the courts below have come to the conclusion that the opponent- original plaintiff has not been able to establish prima facie case. In my view, in absence of any cogent and concrete evidence the Courts below have rightly held in favour of the opponent-original plaintiff. I do not find any illegality or infirmity of law so as to justify this Court to interfere with the impugned order.

In the result, the petition is not maintainable.  
Hence, rejected. Notice is discharged.

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sf-rrj